

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CA0142
	)	EEOC NO.: 21BA82538
<b>CONSTANCE JEFFERSON</b>	)	ALS NO.: 10-0111
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Rozanne Ronen, and Charles E. Box presiding, upon Constance Jefferson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2009CA0142; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that:

- (1) The Respondent's dismissal of Count A, Count B, Count C, Count D, and Count H of the Petitioner's Charge is **VACATED**, and those Counts are **REINSTATED** and **REMANDED** to the Respondent for **FURTHER INVESTIGATION**.
- (2) The Respondent's dismissal of Count E, Count F, and Count G of the Petitioner's Charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.

In support of which determination the Commission states the following findings of fact and reasons:

1. On October 7, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged in her charge that her former employer Chicago State University ("Employer"), harassed her from late 2006 through July 21, 2008, because of her race, Black (Count A), her sex, female (Count B), her age, 66 (Count C), and in retaliation for having opposed unlawful discrimination (Count D). The Petitioner further alleged the Employer issued her a written warning in July 2008 because of her race (Count E), her sex (Count F), her age (Count G), and in retaliation for having opposed unlawful sex discrimination from 2006 through 2008 (Count H). The Petitioner alleged this conduct violated Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (the "Act"). On January 11, 2010, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On February 16, 2010, the Petitioner filed a timely Request.

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<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

2. The Petitioner worked for the Employer as an Administrative Secretary. The Petitioner was first hired by the Employer on December 16, 1999. On November 1, 2000, the Petitioner was transferred to the Employer's Library & Information Service and Library & Instructional Services' Media Department (the "LIS Department"). The Petitioner worked in the LIS Department as an Administrative Secretary IV until June 30, 2008.
3. In a letter dated June 26, 2008, the Employer notified the Petitioner her position was being eliminated as of June 30, 2008, due to restructuring.
4. The Petitioner was a union member. Therefore, the Petitioner's rights and obligations were determined in part by a Collective Bargaining Agreement ("CBA") between her union and the Employer.
5. Pursuant to the Civil Services Statutes and Rules and to the CBA, the Petitioner had "bumping" rights. "Bumping" rights allowed the Petitioner to avoid layoff by taking a similar position within the Employer's organizational structure, even if this meant "bumping" a less senior employee out of that position.
6. The Petitioner exercised her "bumping" rights and took a new position in the Employer's Career Development Center (the "CDC") on July 1, 2008. Once the Petitioner began working in the CDC, the Petitioner was required to adhere to a new work schedule.
7. However, the Petitioner failed to adhere to her new work schedule.
8. On July 14, 2008, the Employer issued the Petitioner a written warning for failing to adhere to her new work schedule.
9. In her charge, the Petitioner alleged the Employer harassed her from late 2006 through July 21, 2008, because of her race, sex, age, and in retaliation for having opposed unlawful discrimination from 2006 through 2008. Further, the Petitioner alleged the Employer issued her the July 14<sup>th</sup> written warning because of her race, sex, age, and as retaliation for having opposed unlawful discrimination.
10. In her Request, the Petitioner states the Respondent's investigation of her charge appeared biased in favor of the Employer, and that some of the witnesses the Petitioner provided to the Respondent were never contacted or interviewed. The Petitioner also contends the Respondent did not include relevant evidence in its Investigative Report.
11. In its Response, the Respondent asks the Commission to sustain the dismissal of Counts E-G of the charge for lack of substantial evidence because the Respondent found no substantial evidence that the Employer had issued the Petitioner the July 14<sup>th</sup> warning because of the

Petitioner's race, sex, or age. However, the Respondent asks that the Commission vacate the dismissal of Counts A-D, and Count H of the charge and remand those Counts for further investigation because the Respondent determined that it needs to conduct further investigation into the Petitioner's harassment and retaliation claims.

## **CONCLUSION**

### **Counts A-D and Count H**

In its Response to the Petitioner's Request, the Respondent does not oppose the Petitioner's Request as to Counts A-D and Count H. See 56 Ill. Admin. Code 5300.430 (2010). The Respondent asks that these Counts be vacated and remanded to the Respondent for further investigation. Therefore, the Commission herein vacates the dismissal of Counts A-D and Count H of the charge and those Counts are remanded to the Respondent for further investigation.

### **Counts E - G**

The Commission concludes the Respondent properly dismissed Counts E-G of the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D) (2010). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.)

In Counts E-G, the Petitioner contends she was issued the July 14<sup>th</sup> written warning because of her race, sex, and age. The Petitioner acknowledges that she was not adhering to her new schedule in July 2008. There has been no evidence presented from which the Commission could conclude that the July 14<sup>th</sup> warning was motivated by the Petitioner's race, sex, and age, as opposed to the Petitioner's admitted refusal to work according to her new schedule. The Employer may take its action for good reason, bad reason, reason based on erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason. See Carlin v. Edsal Manufacturing Company, Charge No. 1992CN3428, ALS No. 7321 (May 6, 1996), *citing* Homes and Board of County Commissioner, Morgan County, 26 Ill HRC Rep. 63 (1986). In this case, there is no substantial evidence the Employer issued the Petitioner the July 14<sup>th</sup> written warning for a discriminatory reason.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of Counts E-G of the charge was not in accordance with the Act. The Petitioner's Request is not persuasive as to those Counts.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

- (1) The Respondent's dismissal of Count A, Count B, Count C, Count D, and Count H of the Petitioner's Charge is **VACATED**, and those Counts are **REINSTATED** and **REMANDED** to the Respondent for **FURTHER INVESTIGATION**.
- (2) The Respondent's dismissal of Count E, Count F, and Count G of the Petitioner's Charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.

***This Order is not yet final and appealable.***

STATE OF ILLINOIS                   )  
  )  
HUMAN RIGHTS COMMISSION    )

Entered this 8<sup>th</sup> day of September 2010

Commissioner Munir Muhammad

Commissioner Rozanne Ronen

Commissioner Charles E. Box